

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

NETLIST, INC.

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA, INC.
and SAMSUNG SEMICONDUCTOR, INC.,

Defendants.

Civil Case No. 2:21-cv-00463-JRG

JURY TRIAL DEMANDED

THE SAMSUNG DEFENDANTS' NOTICE REGARDING CO-PENDING ACTION

Samsung provides notice to the Court regarding a co-pending action in the District of Delaware involving Plaintiff Netlist and Defendants Samsung Electronics Co., Ltd. and Samsung Semiconductor, Inc. regarding the Patents-In Suit. *See Samsung Electronics Co., Ltd., et al. v. Netlist, Inc.*, Case No. 1:21-cv-01453 (D. Del.). On October 15, 2021, Samsung filed a declaratory judgment action alleging its memory modules did not infringe a number of Netlist patents not asserted here - U.S. Patent Nos. 10,217,523, 10,474,595, 9,858,218, and 7,619,912. *See* Dkt. 1. On January 18, 2022, Samsung filed an amended complaint further alleging that its memory modules did not infringe the Patents-In-Suit in this action - U.S. Patent Nos. 10,860,506 (the “’506 patent”), 10,949,339 (the “’339 patent”), and 11,016,918 (the “’918 patent”) - alleging that the “claims in the Texas Infringement Action overlap substantially with the claims asserted in the original complaint in the present action” and that “all of the patents relate to the same area of technology—computer memory modules . . .” Dkt. 14 at ¶ 50. Pending before the court in the District of Delaware is Netlist’s motion to dismiss the first amended complaint. *See* Dkt. 24

(Netlist's Motion to Dismiss). Samsung opposes that motion, alleging that "Counts V–VII and XI, involving the '506, '339, and '918 patents, are properly part of this case, which was filed two months before the Texas Action" and that "the claims should proceed in Delaware under the first-to-file rule" because the '506, '339, and '918 patents are "first filed under a relation back analysis." Dkt. 27 (Samsung's Answering Brief) at 12.

We will keep the Court apprised of any developments in the Delaware action that may impact this matter.

Date: April 13, 2022

Respectfully submitted,

/s/ Michael J. McKeon

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*Attorneys for Defendants Samsung Electronics
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and Samsung Semiconductor, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed electronically in compliance with Local Rule CV-5 on April 13, 2022. As of this date, all counsel of record have consented to electronic service and are being served with a copy of this document through the Court's CM/ECF system under Local Rule CV-5(a)(3)(A).

/s/ Michael J. McKeon

Michael J. McKeon